

**IN THE UNITED STATES DISTRICT COURT  
FORT THE WESTERN DISTRICT OF PENNSYLVANIA**

|                           |   |                                    |
|---------------------------|---|------------------------------------|
| JENNIFER FINLEY,          | ) |                                    |
|                           | ) |                                    |
| Plaintiff,                | ) | Civil Action No. 2:13-cv-00909-JFC |
|                           | ) |                                    |
| v.                        | ) |                                    |
|                           | ) | JURY TRIAL DEMANDED                |
| WESTERN PENN WAXING, LLC; | ) |                                    |
| EUROPEAN WAX CENTER       | ) |                                    |
| FRANCHISE GROUP, INC.     | ) |                                    |
|                           | ) |                                    |
| Defendants.               | ) |                                    |
| _____                     | ) |                                    |

**RESPONSE TO PLAINTIFF’S MOTION FOR LEAVE TO FILE AMENDED  
COMPLAINT**

Defendant, EWC Franchise Group, Inc., n/k/a EWC Franchise, LLC (incorrectly named in the Complaint as European Wax Center Franchise Group, Inc.), (“Defendant” or “EWC”), hereby answers the Plaintiff’s Complaint as follows:

1. EWC acknowledges that Plaintiff’s motion for leave is procedurally proper; however, EWC is opposed to any Amended Complaint on the simple grounds that it still fails to state a claim upon which relief can be granted against EWC. Further amendment will simply delay the inevitable.

2. Specifically, Plaintiff fails to state a claim upon which relief can be granted against EWC for numerous reasons including, without limitation, that Plaintiff has: (i) failed to plead sufficient facts to establish a basis to support her accusation that EWC was her employer, or is otherwise subject to liability for the claims asserted; (ii) failed to plead sufficient facts to establish a legal claim against EWC under the theories alleged under both federal and state law; (iii) failed to plead sufficient facts to establish any conduct by EWC to support the theories alleged under both federal and state law; and (iv) has comingled various theories of

discrimination (including legally inconsistent theories) into a single claim against EWC. Accordingly, any Amended Complaint, while procedurally proper will be futile.

3. With that being said, to the degree that this Court permits Plaintiff to file an Amended Complaint, EWC reserves its right to raise these and any other appropriate defenses in its Answer or otherwise.

WHEREFORE, Defendant EWC Franchise, LLC, (incorrectly identified as European Wax Center Franchise Group, Inc.) respectfully requests that this Court deny Plaintiff's Motion for Leave to File an Amended Complaint.

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|-------------------------|---|
| Date: December 26, 2013 | Respectfully submitted,   |
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|                         | DINSMORE & SHOHL LLP,<br><br><u>/s/ Randal M. Whitlatch</u><br>P.J. Murray, Esquire<br>PA I.D. No. 53523<br>Randal M. Whitlatch, Esquire<br>PA I.D. No. 205815<br>One Oxford Centre, Suite 2800<br>Pittsburgh, PA 15219<br>Telephone: 412-281-5000<br>Facsimile: 412-281-5055<br>Email: <a href="mailto:pmurray@dinsmore.com">pmurray@dinsmore.com</a><br>Counsel for EWC Franchise, LLC, (incorrectly identified as European Wax Center Franchise Group, Inc.) |
|                         | and<br><br>Joseph G. Santoro (FBN 150649)<br><i>Pro Hac Vice Motion Pending</i><br>Tanya M. Reed (FBN 208306)<br><i>Pro Hac Vice Motion Pending</i><br>Gunster, Yoakley & Stewart, P.A.<br>777 S. Flagler Drive, Suite 500 East<br>West Palm Beach, FL 33401<br>Telephone: 561-655-1980   |

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|  | Facsimile: 561-655-5677<br>Email: <a href="mailto:jsantoro@gunster.com">jsantoro@gunster.com</a><br><a href="mailto:treed@gunster.com">treed@gunster.com</a> |
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**CERTIFICATE OF SERVICE**

I hereby certify that on December 26, 2013, the foregoing was served via the Court's CM/ECF system on the following:

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| <p>Vincent J. Mersich, Esquire<br/>Law Office of Vincent J. Mersich, LLC<br/>400 Market Street<br/>Elizabeth, PA 15037<br/>Telephone: 412-384-8803<br/>Facsimile: 412-384-8805<br/>Email: <a href="mailto:vincent.mersichd@outlook.com">vincent.mersichd@outlook.com</a></p> <p>Susan L. Loughran<br/>Marks, O'Neill, O'Brien, Doherty &amp; Kelly<br/>707 Grant Street<br/>Suite 2600, Gulf Tower<br/>Pittsburgh, PA 15219<br/>(412) 391-6171<br/>Email: <a href="mailto:sloughran@mooclaw.com">sloughran@mooclaw.com</a></p> | <p>Janice Q. Russell, Esquire<br/>Law Office of Janice Q. Russell<br/>One Oxford Centre<br/>301 Grant Street, Suite 4300<br/>Pittsburgh, PA 15219<br/>Telephone: 412-577-4007<br/>Facsimile: 724-939-7012<br/>Email: <a href="mailto:janicegrussell@yahoo.com">janicegrussell@yahoo.com</a></p> |
|  | <p>/s/ Randal M. Whitlatch<br/>Randal M. Whitlatch, Esquire</p>   |